

## INSTRUCTIONS FOR PREPARING AN APPENDIX

See 11th Cir. Rules 30-1 and 30-2

Required Contents of Appendix. Within seven days of filing appellant's or petitioner's principal brief, the appellant or petitioner must file an **Appendix** containing those items required by FRAP 30(a)(1), which are:

- the relevant docket entries in the proceeding below;
- the relevant portions of the pleadings, charge, findings, or opinion;
- the judgment, order, or decision in question; and
- other parts of the record to which the parties wish to direct the court's attention.

Other than FRAP 30(a)(1), the requirements in FRAP 30 do not apply in this circuit.

Consistent with the requirements of FRAP 30(a)(1), this Court has determined that the following items are either relevant docket entries or relevant portions of the record in appeals from district courts and the tax court and thus must be included in the appendix:

(1) the district court or tax court docket sheet, including, in bankruptcy appeals, the bankruptcy court docket sheet;

(2) in an appeal in a criminal case, the indictment, information, or petition as amended;

(3) in an appeal in a civil case, the complaint, answer, response, counterclaim, cross-claim, and any amendments to such items;

(4) those parts of any pretrial order relevant to the issues on appeal;

(5) the judgment or interlocutory order appealed from;

(6) any other order or orders sought to be reviewed, including, in bankruptcy appeals, the order(s) of the bankruptcy court appealed to the district court;

(7) in an appeal from the grant or denial of a petition for a writ of habeas corpus under 28 U.S.C. § 2254, all opinions by any state court previously rendered in the criminal prosecution and related collateral proceedings and appeals, and any state court orders addressing any claims and defenses brought by the petitioner in the federal action. This requirement applies whether or not the state court opinions and orders are contained in the district court record;

(8) any supporting opinion, findings of fact and conclusions of law filed or delivered orally by the court;

(9) if the correctness of a jury instruction is in issue, the instruction in question and any other relevant part of the jury charge;

(10) a magistrate's report and recommendation, when appealing a court order adopting same in whole or in part;

(11) findings and conclusions of an administrative law judge, when appealing a court order reviewing an administrative agency determination involving same;

(12) the relevant parts of any document, such as an insurance policy, contract, agreement, or ERISA plan, whose interpretation is relevant to the issues on appeal;

(13) in an appeal in a criminal case in which any issue is raised concerning the guilty plea, the transcript of the guilty plea colloquy and any written plea agreement;

(14) in an appeal in a criminal case in which any issue is raised concerning the sentence, the transcript of the sentencing proceeding, and the presentence investigation report and addenda (under seal in a separate envelope; see detailed instructions below); and

(15) any other pleadings, affidavits, transcripts, filings, documents, or exhibits that any one of the parties believes will be helpful to this Court in deciding the appeal.

Except as otherwise permitted by section (7) above, under no circumstances should a document be included in the appendix that was not submitted to the trial court.

No Appendix by Respondent in Agency Cases. In agency cases, the respondent is not required to file an appendix.

Appellee's Supplemental Appendix. Within seven days of filing appellee's principal brief, appellee must file a **Supplemental Appendix** if the appellee's brief references parts of the record not contained in appellant's Appendix, or if the appellee believes that appellant's Appendix is deficient.

- The appellee’s Supplemental Appendix should not duplicate any documents in the appellant’s Appendix.

Appellee Must Submit an Appendix in an Appeal by an Incarcerated Pro Se Party. In an appeal by an incarcerated pro se party, counsel for appellee must submit an Appendix that includes the specific pages of any record materials (if materials are sealed, please follow instructions for Presentence Investigation Reports) referred to in the argument section of appellee’s brief and those referred to in the argument section of the appellant’s brief that are relevant to the resolution of an issue on appeal.

Appellant’s Reply Brief. Within seven days of filing appellant’s reply brief, appellant must file a **Supplemental Appendix** if the reply brief references parts of the record not contained in the appendix previously filed by any party.

Appendices in Appeals with Multiple Appellants or Appellees. In an appeal with multiple appellants or appellees, including consolidated appeals, any number of appellants or appellees may file a **Joint Appendix** or a **Joint Supplemental Appendix** and are strongly urged to do so. A party need not duplicate any material contained in the appendix filed by another party.

Appendices in Cross-Appeals. Appellant must file an Appendix as described above. Appellee/Cross-Appellant must file a Supplemental Appendix that includes record materials referred to in the argument section of its brief or relevant to the issues raised on cross-appeal, but need not duplicate any material contained in the appellant’s Appendix. Within seven days of filing its second brief, Appellant/Cross-Appellee must file a Supplemental Appendix if the brief references parts of the record not contained in the appendix previously filed by any party.

Presentence Investigation Reports. In an appeal in a criminal case in which any issue is raised concerning the sentence, the appellant (or appellee in the case of an appeal by an incarcerated pro se party), or the party filing the brief, must forward one copy of the PSI under seal to the Clerk of this Court. The party must place one copy of the PSI into a separate sealed envelope marked “**SEALED**” and labeled with the appeal number, short style, and a notation that a copy of a PSI is enclosed. The sealed envelope must accompany the appendix.

Form of the Appendix and Supplemental Appendix. The Appendix must be labeled Appendix or Supplemental Appendix, as appropriate. The Appendix must conform to the requirements of 11th Cir. Rules 30-1 and 30-2, including the following:

- 1) The first item in the Appendix must be an **Index** (see attached sample).

- 2) The second item in the Appendix must be the **district court or tax court docket sheet** including, in bankruptcy appeals, the **bankruptcy court docket sheet**, or in **agency cases**, the **relevant docket entries** in the proceeding below.
- 3) All other documents in the Appendix must be arranged chronologically by date of entry into the record.
- 4) The last document in the Appendix must be a **certificate of service** consistent with FRAP 25(d).
- 5) Standard commercially-available indexing tabs or their equivalent that extend beyond the edge of the page should be staggered in sequence from top to bottom along the right-hand side.
  - Tab numbers should correspond to the original document numbers assigned by the originating court or agency and noted on the originating court or agency docket sheet.
  - The originating court or agency docket sheet should also be tabbed and identified.
  - For electronic appendices filed by counsel, separator pages showing the appropriate tab numbers should be used in place of indexing tabs.
- 6) If the Appendix exceeds 250 sheets of paper, it must be filed in multiple volumes, with each volume containing no more than 250 sheets of paper; when multiple volumes are filed, the Index must indicate the volume in which a document is located.

#### Number of Copies to Be Filed and Served.

- A pro se party proceeding in forma pauperis may file only one paper copy of an Appendix or Supplemental Appendix, except that an incarcerated pro se party is not required to file an Appendix.
- Every other party must file two paper copies of the Appendix or Supplemental Appendix within seven days of filing the party's brief, and if the appeal is classed for oral argument, an additional three identical paper copies of the Appendix previously filed by the party within seven days after the date on the notice from the Clerk that the appeal has been classed for oral argument. One copy must be served on counsel for each party separately represented, and on each pro se party.

- In agency cases, the respondent is not required to file an appendix.
- Counsel using the ECF system must file appendices electronically, as well as in paper. See 11th Cir. Rules 30-1(d) and 30-2; Section 11.1 of the Guide to Electronic Filing.

## APPENDIX CHECKLIST

### CIVIL CASES

Required Contents. If appealing from the denial or grant of summary judgment, the appellant must file an Appendix containing:

- 1. Index
- 2. District Court or Tax Court docket sheet (including, in bankruptcy appeals, the bankruptcy court docket sheet)

*Items 3-13 to be arranged chronologically by date of entry into the record:*

- 3. Complaint, answer, response, counterclaim, cross-claim, and any amendments to such items
- 4. Parts of any pretrial order relevant to issues on appeal
- 5. Judgment or interlocutory order appealed from
- 6. Other order(s) sought to be reviewed (including bankruptcy court orders)
- 7. In an appeal from the grant or denial of a petition for a writ of habeas corpus under 28 U.S.C. § 2254, all opinions by any state court previously rendered in the criminal prosecution and related collateral proceedings and appeals, and any state court orders addressing any claims and defenses brought by the petitioner in the federal action
- 8. Supporting opinion, findings of fact and conclusions of law filed or delivered orally by the court
- 9. Jury instruction (if correctness in issue)
- 10. Magistrate's report and recommendation, when appealing a court order adopting same in whole or in part
- 11. Findings and conclusions of administrative law judge, when appealing a court order reviewing administrative agency determination
- 12. Relevant parts of any document whose interpretation is central to the issues on appeal
- 13. Any other pleadings, affidavits, transcripts, filings, documents, or exhibits that appellant believes will be helpful to this Court in deciding the appeal
- 14. Certificate of Service

Form:

- Durable White Covers (front & back)
- Indexing Tabs (Tab numbers corresponding to district court or tax court document numbers)
- No more than 250 sheets of paper in each volume

Number Required:

- Prisoner Pro Se: None
- Pro Se IFP: 1 paper copy
- Other: 2 paper copies
- Counsel using the ECF system must also file electronically

## APPENDIX CHECKLIST

### CRIMINAL CASES

Required Contents. In an appeal in a criminal case, the appellant must file an Appendix containing:

- 1. Index
- 2. District Court docket sheet

*Items 3-13 to be arranged chronologically by date of entry into the record:*

- 3. Indictment, information, or petition as amended
- 4. Parts of any pretrial order relevant to issues on appeal
- 5. Judgment or interlocutory order appealed from
- 6. Other order(s) sought to be reviewed
- 7. Supporting opinion, findings of fact and conclusions of law filed or delivered orally by the court
- 8. Jury instruction (if correctness in issue)
- 9. Magistrate's report and recommendation, when appealing a court order adopting same in whole or in part
- 10. Relevant parts of any document whose interpretation is central to the issues on appeal
- 11. If any issue concerns the guilty plea, the transcript of the guilty plea colloquy and any written plea agreement
- 12. If any issue concerns the sentence, the transcript of the sentencing proceeding, and the presentence investigation report and addenda, under seal in a separate envelope
- 13. Any other pleadings, affidavits, transcripts, filings, documents, or exhibits that appellant believes will be helpful to this Court in deciding the appeal
- 14. Certificate of Service

Form:

- Durable White Covers (front & back)
- Indexing Tabs (Tab numbers corresponding to district court document numbers)
- No more than 250 sheets of paper in each volume

Number Required:

- Prisoner Pro Se: None
- Pro Se IFP: 1 paper copy
- Other: 2 paper copies
- Counsel using the ECF system must also file electronically

## APPENDIX CHECKLIST

### AGENCY CASES

Required Contents. In proceedings for review of orders of an agency, board, commission, or officer, the petitioner must file an Appendix containing:

1. Relevant docket entries in the proceeding below;
2. Relevant portions of the pleadings, charge, findings, or opinion;
3. Judgment, order, or decision filed by the agency, board, commission, or officer
4. Other parts of the record to which the petitioner wishes to direct the Court's attention.

Note: The respondent is not required to file an appendix in agency cases.

#### Form:

- Durable White Covers (front & back)
- Indexing Tabs (Tab numbers corresponding to agency document numbers)
- No more than 250 sheets of paper in each volume

#### Number Required:

- Prisoner Pro Se: None
- Pro Se IFP: 1 paper copy
- Other: 2 paper copies
- Counsel using the ECF system must also file electronically



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